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*Attorneys for Defendant: Otto Trucking LLC*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

Waymo LLC,

Plaintiff,

v.

Uber Technologies, Inc.; Ottomotto LLC; Otto  
Trucking LLC,

Defendants.

Case No. 3:17-cv-00939-WHA

**OTTO TRUCKING'S SUPPLEMENTAL  
NOTICE OF JOINDER IN UBER  
TECHNOLOGIES INC. AND  
OTTOMOTTO'S MOTION TO EXCLUDE  
TESTIMONY AND OPINIONS OF  
WAYMO'S DAMAGES EXPERT  
MICHAEL WAGNER (DKT. NO. 1619)**

Hearing Date: September 27, 2017  
Hearing Time: 8:00 a.m.  
Courtroom: 8, 19<sup>th</sup> Floor  
Judge: Hon. William Alsup

1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT Defendant Otto Trucking, LLC (“Otto Trucking”)  
3 hereby supplements its earlier joinder (Dkt. No. 1653) in Co-Defendants Uber Technologies,  
4 Inc.’s (“Uber”) and Ottomotto, LLC’s (“Ottomotto”) Motion to Exclude Testimony and Opinions  
5 of Waymo’s Damages Expert Michael Wagner (the “Wagner Motion”) (Dkt. No. 1619). Otto  
6 Trucking states that Mr. Wagner should be excluded from offering any damages opinions with  
7 respect to Otto Trucking in light of his recent admissions during deposition testimony. In further  
8 support of its joinder, Otto Trucking states as follows:

9 1. On September 16, 2017, Uber/Ottomotto filed and served the Wagner Motion  
10 seeking to exclude Mr. Wagner’s damages opinion and testimony because that opinion was  
11 unreliable, based on a flawed methodology, and contradictory.

12 2. On September 25, 2017, Uber/Ottomotto filed and served an administrative motion  
13 to supplement the Wagner Motion record with Mr. Wagner’s deposition transcript (Dkt. No.  
14 1787), which the Court granted on the same day (Dkt. No. 1795).

15 3. In its prior joinder, Otto Trucking noted that “Mr. Wagner’s opinion is unreliable  
16 because it continues to lump Otto Trucking with Ottomotto, though the two are separate  
17 companies. He also has not demonstrated any damages specifically as to Otto Trucking separate  
18 from the damages he contends are attributed to Uber.” (Dkt. No. 1653 ¶ 4).

19 4. At his September 22, 2017 deposition, Mr. Wagner admitted that [REDACTED]  
20 [REDACTED]

21 [REDACTED] For the Court’s convenience, Otto Trucking identifies at least the following  
22 excerpts from Mr. Wagner’s deposition transcript (Dkt. No. 1786-3) as relevant to its joinder in  
23 the Wagner Motion:

24 - 127:12–15: [REDACTED]  
25 [REDACTED]

26 - 128:14–22: [REDACTED]  
27 [REDACTED]  
28 [REDACTED]

- 1 - 134:15–18: [REDACTED]  
2 [REDACTED]  
3  
4 - 136:18–137:4: [REDACTED]  
5 [REDACTED]  
6  
7 - 138:10–14: [REDACTED]  
8 [REDACTED]  
9  
10 - 142:3–7: [REDACTED]  
11 [REDACTED]

12 WHEREFORE, Defendant Otto Trucking LLC hereby supplements its joinder and  
13 adoption of Co-Defendants’ Motion to Exclude Testimony and Opinions of Waymo’s Damages  
14 Expert Michael Wagner (Dkt. No. 1619).

15 Dated: September 26, 2017

Respectfully submitted,

16 By: /s/ Neel Chatterjee  
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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court for the United States District Court for the Northern District of California by using the CM/ECF system on **September 26, 2017**. I further certify that all participants in the case are registered CM/ECF users and that service of the publicly filed document will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct. Executed on **September 26, 2017**.

/s/ Neel Chatterjee  
NEEL CHATTERJEE